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Approved: Two
DANIELLE R. SASSOON
Assistant U.S. Attorney

Before: HONORABLE HENRY PITMAN
United States Magistrate Judge
Southern District of New York



SEALED COMPLAINT

UNITED STATES OF AMERICA
- v. -
COLIN JAMES,
Defendant.

SOUTHERN DISTRICT OF NEW YORK, ss.:

GERARD MCMAHON, being duly sworn, deposes and says that he is a Special Agent with U.S. Customs and Border Protection, Office of Professional Responsibility, within the Department of Homeland Security, and charges as follows:

COUNT ONE

(Theft of Government Funds)

1. From at least in or about November 2015, up to and including at least in or about March 2016, in the Southern District of New York and elsewhere, COLIN JAMES, the defendant, did knowingly embezzle, steal, purloin, and convert to his use and the use of another, and without authority, did sell, convey, and dispose of records, vouchers, money and things of value of the United States and a department and an agency thereof, the value of which exceeded the sum of \$1,000, to wit, JAMES fraudulently obtained paid military leave to which he was not entitled.

(Title 18, United States Code, Section 641.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with U.S. Customs and Border Protection ("CBP"), Office of Professional Responsibility, within the Department of Homeland Security, and have been employed in this capacity for over 3 months. Prior to that, for 9 years, I was a Special Agent with Homeland Security Investigations within the Department of Homeland Security. I have personally participated in the investigation of this matter. This affidavit is based upon my personal knowledge, my review of documents, and my conversations with CBP personnel and U.S. military personnel. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions and statements of others are reported herein, they are reported in substance and in part, except where otherwise expressly indicated.

JAMES Took Paid Military Leave for Reserve Duty

3. As part of my investigation, I have reviewed documents maintained by CBP related to COLIN JAMES, the defendant. From my review of these documents, and my conversations with JAMES's employment supervisor and his military supervisor, I have learned, in substance and in part, the following:

a. JAMES has been a member of the U.S. Army Reserves since April 7, 2015.¹

b. On or about July 27, 2015, JAMES began working as a Regulatory Auditor for CBP at the Office of International Trade in Manhattan.

c. As a civilian employee of the federal government, JAMES was entitled to 15 days per fiscal year of time off at full pay for certain types of active duty or inactive-duty training as a member of the U.S. Army Reserves ("Reserve Duty"). CBP refers to such time off as "paid military leave."

d. In or about November 2015, JAMES requested and took two days of paid military leave, for which CBP paid him \$418.40.

e. On or about January 28, 2016, JAMES requested one day of military leave for February 1, 2016, explaining to his supervisor in sum and substance that he had been summoned by the

¹ JAMES was on active duty in the U.S. Army National Guard from on or about November 4, 2008 until on or about March 11, 2014.

military for Reserve Duty. JAMES took one day of paid military leave on February 1, 2016, for which CBP paid him \$212.08.

f. On or about March 3, 2016, JAMES informed his supervisor by email, in sum and substance, that he had been activated to go full time to Reserve Duty for the next 6 months to a year. JAMES informed his supervisor that he was attaching a copy of his military orders to his email. The attachment appeared to be orders from the military to JAMES, directing him to appear for National Guard Duty from March 7, 2016 until September 2, 2016 (the "Military Orders").

g. JAMES took paid military leave from on or about March 4, 2016, until on or about March 22, 2016, for which CBP paid him \$2332.88.

h. In total, from in or about November 2015 until in or about March 2016, JAMES received approximately \$3,000 in paid military leave.

JAMES was not Ordered for, and Never Performed, Reserve Duty

4. Based on my review of the Military Orders, as well as conversations with CBP personnel and U.S. military personnel, I have learned, in substance and in part, the following:

a. The U.S. Army Reserves has no records that indicate any military orders for JAMES and no record that he has ever been activated for military duty.

b. The format of the Military Orders that JAMES submitted to his employer does not resemble the format of the military orders used by the U.S. Army Reserves. Among other things, the Military Orders demand appearance for "Full Time National Guard Duty," but JAMES has not been a member of the National Guard since on or about March 11, 2014. The Military Orders include an order number that corresponds to a member of the National Guard, who is an acquaintance of JAMES. The Military Orders appear to have been doctored to substitute JAMES's name for that of his acquaintance.

c. JAMES never reported for Reserve Duty.

5. Based on my review of JAMES's travel records, I have learned that during the period JAMES claimed to be activated for full time Reserve Duty, he repeatedly traveled in and out of the United States, including on trips to Trinidad, St. Thomas, and Barbados.

WHEREFORE, I respectfully request that an arrest warrant be issued for COLIN JAMES, the above-named defendant, and that he be arrested and imprisoned, or bailed, as the case may be.



GERARD McMAHON
Special Agent
U.S. Customs and Border Protection
Office of Professional Responsibility
Department of Homeland Security

Sworn to before me this
9th day of August, 2016.



THE HONORABLE HENRY PITMAN
United States Magistrate Judge
Southern District of New York